IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8367 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHIVBHADRA EDUCATION & CHRITABLE TRUST

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8367 of 1993

MR ND NANAVATI for Petitioner No. 1

MR RN DESAI for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 18/09/2002

ORAL JUDGEMENT

1. The present petition is preferred by the

petitioner for quashing and setting aside the order dated 8-2-1993, Annexure "A" passed by the State Government as well as the order dated 24-7-1991 passed by the Gujarat Secondary Education Board, whereby the permission to the petitioner to open 8th Standard class was declined.

2. Heard Ms.Nanavati, learned Counsel appearing for the petitioner and Ms.Manisha Lavkumar, learned AGP for the respondent State.

3. The perusal of the order shows that the same was passed as back as in 1991 and thereafter the State Government had confirmed the said order on 8-2-1993. The learned Counsel for the petitioner submitted that the report of the District Education Officer was for recommending to grant permission. However, the said report is not properly considered. It has also been submitted that the grounds which were mentioned were not properly considered by the State Government.

4. On behalf of the respondents, learned AGP has supported the order passed by the State Government.

5. Considering the facts and circumstances of the case, I am of the opinion that even if the request of the petitioner is accepted, the Court will not be able to give any effective relief, more particularly because the application was made as back as 1991. After 1991, it may be that new schools must have been opened in the said area and whether the petitioner Trust is, as on today, financially sound or whether the petitioner Trust is, as on today, in a position to meet the present requirements for opening 8th Standard or not can be examined, if the petitioner makes a fresh application. I am inclined to take that view becuase the situation, facilities and requirements for opening 8th Standard, which were prevailing in the year 1991 would not be the same for the year 2002 and, therefore, I am of the view that the following directions would meet with the ends of justice:

5.1 It will open to the petitioner to apply afresh for opening 8th standard by undergoing necessary formalities and if such application is made, the concerned Authority shall consider the same in accordance with law as per the existing policy and the situation prevailing as on today.

6. In view of the aforesaid directions no further directions are required to be given or no further direction can rather be given in this petition and hence the petition is disposed of accordingly.

18-9-2002 (Jayant Patel, J.)

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